

The Commonwealth of Massachusetts

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ANNUAL REPORT

OF THE

COMMISSIONERS ON UNIFORM
STATE LAWS

FOR THE

Year ending November 30, 1926



The Commonwealth of Massachusetts

EIGHTEENTH ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS

To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:—The Commissioners on Uniform State Laws during the year ending November 30, 1926 have been Hollis R. Bailey, Chairman and Secretary, Prof. Samuel Williston, and Joseph F. O'Connell. Under the provisions of General Laws, Chapter 6, Sections 26-28 as amended by Acts 1924, Chapter 200, the board is constituted a permanent one.

As required by law they submit this their annual report.

WORK OF THE BOARD

The work of the members of the Board is much the same in its general character each year. Early in December they prepare and file with the Secretary of State or other proper officer a statement as to what legislation they will ask to have enacted at the coming session of the Legislature. With this statement they file copies of the proposed acts.

When the Legislature convenes they appear before the Judiciary Committee or such other committees as may have the duty of considering and reporting on the bills presented.

During the winter as members of different committees they do considerable work in drafting and discussing new uniform laws to be considered at the next Annual Meeting of the National Conference of Commissioners on Uniform State Laws.

The Annual Meeting, held in the summer, lasts for one week and there are two and sometimes three sessions each day and the time is devoted to a consideration section by section of each law which is to be approved and recommended for adoption in the different States.

Nearly all the States are represented by one or more commissioners at each Annual Conference.

The vote on the approval of acts is taken by States and no act is approved except upon the affirmative vote of at least twenty States.

ACTS RECOMMENDED IN MASSACHUSETTS LAST YEAR

The Commissioners for this Commonwealth recommended last year the enactment by the Legislature of two Uniform Laws, viz., The Uniform Declaratory Judgments Act, and The Uniform Law Relating to the Discharge of Obligors Bound for the same Debt.

A hearing was had before the Judiciary Committee on both of the proposed acts and the report of said Committee was in each case adverse. The Commissioners were a good deal surprised at the result because the opposition to the first of said bills was slight and there was no opposition to the second of said bills.

As we have repeatedly pointed out, all the proposed uniform laws are prepared and very carefully considered by persons who may be considered to be experts. The commissioners work without compensation. Their only reward is the belief that they are rendering valuable public service.

When the Massachusetts Legislature fails to enact the uniform laws which are recommended the Commonwealth loses the benefit of the work which is done by her own commissioners and by the commissioners of all the States.

ANNUAL MEETING OF THE CONFERENCE

The thirty-sixth annual meeting of the National Conference of Commissioners on Uniform State Laws was held in Denver, Colorado, July 6-July 12, 1926.

Two of your commissioners, viz., Hollis R. Bailey and Samuel Williston, attended the meetings and took part in the work that was done. Eight Uniform Acts were finally approved, viz.:—

1. Uniform Federal Tax Lien Registration Act
2. Uniform Fire Arms Act.
3. Uniform Criminal Extradition Act.
4. Uniform Chattel Mortgage Act.
5. Uniform Motor Vehicle Registration Act.
6. Uniform Motor Vehicle Certificate of Title and Anti-Theft Act.
7. Uniform Motor Vehicle Operator's and Chauffeur's License Act.
8. Uniform Act Regulating the Operation of Vehicles on Highways.

The Conference voted to resume work upon a Uniform Mortgage Act and a new committee on the subject was appointed. Considerable work was done on a Uniform Mechanic's Lien Act and a Uniform Trust Receipts Act. A new Uniform Child Labor Act and a new Uniform Divorce Act were ready but lack of time prevented their consideration.

OFFICERS OF THE CONFERENCE

George B. Young of Montpelier, Vt. was re-elected President.
 Samuel Williston of Belmont, Mass. was elected Vice-President.
 George G. Bogert of Chicago was re-elected Secretary.
 W. O. Hart of New Orleans, La. was re-elected Treasurer.
 Jesse A. Miller of Des Moines, Ia. was re-elected Chairman of the Executive Committee.

The usual Committees were appointed.

Hollis R. Bailey was re-appointed Chairman of Committee on Marriage and Divorce Acts.

Prof. Samuel Williston was re-appointed a member of the Committee on Scope and Program and of the Committee on Commercial Laws, and also re-appointed Chairman of Committee on Amendments to Uniform Acts.

AMERICAN BAR ASSOCIATION

The American Bar Association at its meeting held in Denver in July 1926 approved the eight Uniform Laws above enumerated. The Association also showed its interest in the matter of procuring the enactment of Uniform Laws by creating a Legislative Committee in each State to co-operate with and assist the Commissioners in procuring the enactment of Uniform Laws. It also by its By-laws made it the duty of the Vice-President and the members of the General Council in each State to aid the Commissioners in that work. The Legislative Committee for Massachusetts is composed of Gleason L. Archer of Boston and Fitz Henry Smith, Jr. of Boston. The Vice-President for Massachusetts is Reginald Heber Smith of Boston and the member of the General Council is John E. Hannigan of Boston.

The American Bar Association is also making an effort to enlist the support and secure the assistance of the state bar associations in each State. By-law Ten of the By-laws of the Association requires the Secretary of the Association to send to the President of each State Bar Association a request that his bar association co-operate with the Vice-President and members of the General Council of the American Bar Association and the Commissioners on Uniform State Laws in his State in procuring the enactment of Uniform Laws.

COMMERCIAL LAW LEAGUE

The Commercial Law League of America is also taking an active interest in the cause of Uniform state legislation. It has created a committee of three members in each State on uniform state laws whose duty it is to aid the Commissioners of the Conference in each State in securing the enactment of the uniform acts. The committee for Massachusetts consists of Lloyd Makepiece of Boston, William M. Silverman of Boston and Cornelius A. Parker of Boston.

The Commissioners in Massachusetts hope that the Legislature in Massachusetts will now recognize as never before the importance of the work which the Commissioners in Massachusetts and in all the States are seeking to accomplish.

ACTS RECOMMENDED THIS YEAR FOR ENACTMENT IN MASSACHUSETTS

1. *Uniform Declaratory Judgments Act.*

The Commissioners again recommend the enactment of the Uniform Declaratory Judgments Act. This act has been adopted in eight States, including New

Jersey and Pennsylvania. The reasons which were advanced last year for the adoption of the act still hold good. This act, after several years consideration, was approved by the National Conference of Commissioners in 1922; and in 1923 was approved by the American Bar Association. The act was drafted after a very careful study of the English law and practice on the subject of declaratory judgments. The fact that eight States have already adopted the uniform law makes it very desirable that Massachusetts should enact that law rather than adopt a law worded in a different way. Before the uniform law was recommended, five States, viz., Florida, Michigan, Wisconsin, Kansas and New York had adopted the principle which is the basis of the law.

We believe that this Uniform Law is a good law and we hope it will be adopted in Massachusetts this year.

2. *Uniform Federal Tax Lien Registration Act*

Every conveyancer will recognize the importance of this piece of legislation. If this act is adopted every purchaser of real estate will be able to ascertain very easily whether the property is subject to any tax lien of the Federal Government. As matters are now it is difficult if not impossible to ascertain whether a piece of real estate is subject to such a tax lien.

3. *Uniform Criminal Extradition Act.*

The first draft of this act was considered by the Commissioners on Uniform State Laws in 1922. It has been rewritten three times since then and has been considered in detail and is now in shape to be safely adopted by the States. The statutes and the decisions in all the States have been studied and also the decisions of the United States Supreme Court.

The matter is one of a good deal of importance and it is clearly desirable that the laws of the several States as to extradition should be uniform.

4. *Uniform Act Regulating the Operation of Vehicles on Highways.*

This act was finally adopted by the National Conference of Commissioners and approved by the American Bar Association in July 1926. The act represents a great deal of thought and a great deal of work. Prior to 1923 the Conference had a committee engaged in considering the subject. In 1924 this Committee submitted to the meeting of the Conference held in Philadelphia the first tentative draft of a uniform vehicle act.

The subsequent history of the act is as follows:—

The Honorable Herbert Hoover, Secretary of Commerce of the United States, called for a meeting in Washington, D. C. on December 15-17, 1924, a National Conference on Street and Highway Safety. The purpose and problem of this Conference was as stated by the Secretary of Commerce to devise and recommend measures which would reduce the traffic accidents in the country. Such National Conference on Street and Highway Safety was made up of the official delegates appointed by the Governors of forty-three States, delegates of all the voluntary organizations in the country given to promotion of greater traffic safety, including traffic and police officials and representatives of industries concerned, amounting in number to nearly one thousand. The following associations co-operated with the Department of Commerce in organizing and financing such National Conference on Street and Highway Safety:

- American Automobile Association
- American Electric Railway Association
- American Mutual Alliance
- American Railway Association
- Chamber of Commerce of the United States
- National Association of Taxicab Owners
- National Automobile Chamber of Commerce
- National Bureau of Casualty and Surety Underwriters
- National Research Council
- National Safety Council.

The matter of uniform legislation throughout the States having been initiated by the National Conference of Commissioners on Uniform State Laws, and the Committee on such matters having held various hearings and sent out questionnaires throughout the country to officials and organizations interested in greater traffic safety, the following officials and members of the National Con-

ference of Commissioners on Uniform State Laws were appointed by the Secretary of Commerce as delegates to the First National Conference on Street and Highway Safety:

The President of the Conference of Commissioners on Uniform State Laws—Nathan William MacChesney.

Chairman of the Executive Committee of such Conference—George B. Young
Chairman of the Section of Public Law—Chester I. Long

Chairman of the Committee on Uniform Act Governing Use of Highways by Vehicles—Gurney E. Newlin

The draftsman of the Act—J. Allan Davis.

At the meeting of the First National Conference on Street and Highway Safety, eight committees were appointed to make recommendations with regard to legislative, administration and regulation, cooperative work, and future activities involved in a National Street and Highway Accident Prevention program. Said committees were charged with the duty of making a preliminary survey of the street and highway situation, of settling methods of traffic control, of investigating the question of automobile insurance and its relation to accident prevention, and of making recommendations with respect to the purposes of the Conference.

The Secretary of Commerce stated at the Second National Conference on Street and Highway Safety, held in Washington, D. C. on March 23, 24, 25, 1926.

"The outstanding feature in the reports of all of our committees last year and in the decisions of the Conference itself was the lack of uniformity in our traffic law and regulations, and the failure of many communities to benefit by the experience of others—all of which has a large responsibility in the causes of accidents.

In result of your recommendations last year, we appointed a Committee on Uniformity of Laws and Regulations and requested it to prepare for submission to this Conference a model Motor Vehicle Code which would be so drafted that it might act as a guide to the different states."

The Secretary of Commerce appointed as Chairman of the Committee on Uniformity of Laws and Regulations, General Nathan William MacChesney, past President of the National Conference of Commissioners on Uniform State Laws. General MacChesney appointed as Sub-chairman of the Committee, the Honorable George B. Young, President of the National Conference of Commissioners on Uniform State Laws; and other members of the Committee from such National Conference were Gurney E. Newlin, of Los Angeles, the Chairman of the Committee on Uniform Law Regulating the Use of Highways by Vehicles of such National Conference, and J. Allen Davis, of Los Angeles, who was the draftsman of such Act. Said Committee on Uniformity of Laws and Regulations, of the National Conference on Street and Highway Safety, in cooperation with the Committee on Uniform Act Regulating the Use of Highways by Vehicles, of the National Conference of Commissioners on Uniform State Laws, developed and submitted to the Second National Conference on Street and Highway Safety three model acts to form the basis of a Uniform Vehicle Code. The report of the committee on Uniformity of Laws and Regulations is as follows:

The Honorable Herbert Hoover, Chairman,

Conference on Street and Highway Safety,

Washington, D. C.

Sir: The First National Conference on Street and Highway Safety emphasized the importance of uniformity of traffic laws and regulations, and recommended in its report certain principles which should be embodied in those laws and regulations. In order that those principles might be properly developed on a legal basis, the Committee on Uniformity of Laws and Regulations was created some months ago. In its report the Committee recognizes that the safe, economical and convenient use of the highways requires uniformity in (a) State vehicle acts, (b) State administrative regulations, (c) Local traffic ordinances, and (d) Local traffic administrative regulations.

STATE VEHICLE ACTS

As its primary objective, the Committee on Uniformity of Laws and Regulations, in cooperation with the National Conference of Commissioners on Uniform State Laws, has developed three model acts which it is hoped will form the basis of a Uniform Vehicle Code to consist of:

I. A Uniform Motor Vehicle Registration and Certificate of Title Act.

II. A Uniform Motor Vehicle Operators' and Chauffeurs' License Act.

III. A Uniform Act Regulating the Operation of Vehicles on Highways.

In developing the model acts the Committee has considered the principles laid down by the First National Conference on Street and Highway Safety, and the existing motor vehicle laws in the several states, as well as the proposed act prepared under the auspices of the National Conference of Commissioners on Uniform State Laws, and has endeavored to incorporate the principles referred to and to include the best provisions of all of these legislative acts.

In submitting these three acts, the Committee recommends that if they are approved by the Conference they be submitted to the National Conference of Commissioners on Uniform State Laws as the basis for proper uniform state laws on the subject. It is assumed that when the acts come up for consideration in the various states they will be studied carefully by the legal experts of those states to determine upon any modifications necessary to meet the constitutional or other legal requirements of those states.

Registration of vehicles is already required in all states, certificates of title and licensing of operators and chauffeurs in many, and the Committee is strongly of the belief that all of these things are necessary and that uniform requirements throughout the country are of great importance. The need for Act III—A Uniform Act Regulating the Operation of Vehicles on Highways—is paramount, however, and the Committee desires to point out that the development of the subject matter of the Uniform Vehicle Code and its division into three separate acts makes it possible to obtain uniformity in rules and regulations of the road and vehicle equipment by the passage of Act III separately from Act I—A Uniform Motor Vehicle Registration and Certificate of Title Act, or Act II—A Uniform Motor Vehicle Operators' and Chauffeurs' License Act.

STATE ADMINISTRATIVE REGULATIONS

The Uniform Vehicle Code should in many respects be supplemented by state administrative regulations. The proposed Uniform Vehicle Code requires that every motor vehicle be equipped with headlamps which will provide ample driving light without glare, and a rear lamp; and that every motor vehicle be equipped with brakes and certain other standard equipment. The law having declared in general terms what equipment is necessary and the results to be attained, then the matter of technical specifications to be met by such equipment in order to comply with the law may well be the subject of regulations to be adopted by administrative officers of the state.

The proposed Uniform Vehicle Code declares as matters of law certain limitations as to the size and weight of vehicles, vesting authority in the state highway officials to modify such limitations by administrative regulation when particular conditions necessitate reduction in size or weight or there is need for temporary removal of the limitation.

Uniform regulations as to technical details of equipment should be secured through the development of a series of codes by the associations of the officials concerned, with the cooperation of properly qualified public, scientific and commercial bodies, through the medium of joint committees.

LOCAL TRAFFIC ORDINANCES

As has already been indicated, it is necessary that there be uniformity, so far as practicable, in local ordinances and regulations as well as in state laws and regulations. One of the principal functions of local governments in respect to traffic regulations is the enforcement by municipal authorities of the provisions of the state laws.

Local governments also have certain functions peculiarly their own, such as the placing and maintenance of street signs, signals and markings, the careful

investigation of accidents, the establishing of parking regulations and other special traffic rules. In regard to some of these, complete uniformity in the provisions of the ordinances of various cities is both desirable and practicable, and even where special local requirements are necessary, they should be treated in a uniform manner and enforced by uniform procedure.

The Committee on Uniformity of Laws and Regulations looks forward to the eventual development of a model ordinance for all municipalities throughout the country. For the present, however, the Committee believes the best progress toward uniformity of local ordinances can be obtained through the action of state or regional conferences of persons and organizations interested, including municipal officials immediately concerned in their enactment and enforcement.

LOCAL TRAFFIC ADMINISTRATIVE REGULATIONS

In local as in state traffic regulation certain matters can be treated better by administration than by legislation. The measures already outlined with reference to state laws and regulations and municipal ordinances will of themselves promote uniformity in the application of municipal regulation. Any model ordinance should empower local authorities to promulgate supplementary rules and regulations, and uniformity in such regulations should be secured in the same manner as has been recommended in the case of state regulations.

CONCLUSION

The Committee recognizes that this report does not cover the entire field of legislation. Legislative and administrative measures are required for such subjects as railroad grade-crossing elimination and protection, and street and highway planning, construction and maintenance. All these measures must be properly enforced and must further be supplemented by research, educational activity and cooperative effort as recommended by the First National Conference on Street and Highway Safety, and by the reports of other committees appointed subsequent to the First Conference.

By the Committee,

NATHAN WILLIAM MacCHESNEY, *Chairman*.

Washington, D. C.

January 29, 1926.

In his opening address to the Second National Conference on Street and Highway Safety, the Honorable Herbert Hoover, Secretary of Commerce, stated:

"You have had placed before you a model Motor Vehicle Code consisting of three suggested laws which, if adopted by all of the States, will bring about uniformity of laws and regulations. I consider this to be perhaps the outstanding concrete accomplishment of the two years of work of the Conference on Street and Highway Safety. In making this statement I do not depreciate in any way the work of any of the other committees. Their work is the foundation for it. This Code is largely based on the results of their work and could hardly have been designed in a manner which seems to be so satisfactory to all groups had it not been for their services. The Committee is headed by one of the nation's most distinguished lawyers. He has had in the personnel of his committee well known lawyers, engineers, State and City officials, and representatives of practically all of the groups affected by the traffic situation. The Committee has worked hard. It has had the benefit of the invaluable assistance of the National Conference of Commissioners on Uniform State Laws. Its draftsman is a man of long experience in motor vehicle legislation. It is my belief that in presenting the three suggested laws which make up this Code to the various State Legislatures throughout the United States, this Conference is making a contribution to the effort to save lives and human suffering which can never be measured in dollars and cents."

The National Conference of Commissioners on Uniform State Laws, at its meeting held in Detroit in 1925, considered the second tentative draft of a Uniform Act and made certain recommendations with respect thereto. Of the Committee presenting this draft, Mr. Gurney E. Newlin was Chairman, and Mr. J. Allen Davis, of Los Angeles, was the draftsman of the Act. Such Act

so considered and tentatively approved by the Conference was the basis of the Motor Vehicle Code submitted to the Second National Conference on Street and Highway Safety. The Second National Conference on Street and Highway Safety directed that the Code be divided into four instead of three Acts, to consist of

- (1) A Uniform Motor Vehicle Registration Act
- (2) A Uniform Anti-theft Act
- (3) A Uniform Motor Vehicle Operators' and Chauffeurs' License Act
- (4) A Uniform Act Regulating the Operation of Vehicles on Highways,

and with certain other modifications approved by such Conference, the Code was endorsed and recommended to the National Conference of Commissioners on Uniform State Laws and to the several State Legislatures as the basis for uniform legislation on the subject. Said Code as modified by such Second National Conference was submitted to the National Conference of Commissioners on Uniform State Laws at its meeting held in Denver in July, 1926, as the third tentative draft of a Uniform Vehicle Code. Said Conference, after detailed consideration of every provision in the Code, approved it in the form hereinafter set forth and recommended it to the legislatures of the States for adoption. Said Code was further submitted to the American Bar Association at its meeting held in Denver in the same month, and was by such Association approved and recommended for adoption.

The Code has been developed as the result of years of investigation and study. The provisions contained in it have had the consideration of all of the organizations in the country vitally interested in the regulation of vehicles on highways, the licensing of the operators thereof, the registration and protection of title of such vehicles. Its adoption by the several State Legislatures is recommended by the National Conference on Street and Highway Safety and all of the organizations and officials making up that Conference, the National Conference of Commissioners on Uniform State Laws, and the American Bar Association.

FINANCIAL STATEMENT

1926

Amount of Appropriation		\$750.00
Apr. 20 Paid W. O. Hunt, Treas. Contribution toward expenses of National Conference		\$100.00
H. R. Bailey, expense of typewriting annual report and uniform acts	17.90	
Mass. State Prison, printing annual report	11.03	
Apr. 29 Joseph F. O'Connell, traveling and other expenses	76.36	
July 31 Hollis R. Bailey, expenses to and at Denver, Col.	226.98	
Aug. 4 Samuel Williston, expenses to and at Denver, Col.	229.33	
Nov. 29 H. R. Bailey, expense typewriting annual report, &c.	18.00	
Nov. 30 Unexpended balance	70.40	\$750.00
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		\$750.00

HOLLIS R. BAILEY,
SAMUEL WILLSTON,
JOSEPH F. O'CONNELL,

Commissioners on Uniform State Laws.